

S. Grier Wells
Board Certified Civil Trial Attorney
904-632-8478
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May 8, 2020

Mr. Steven Barclay
National Labor Relations Board
Region 12
201 E. Kennedy Boulevard, Suite 530
Tampa, Florida 33602-5824

Re: AirPro Diagnostics LLC
Case No. 12-CA-258698

Dear Mr. Barclay:

This correspondence will serve as a response on behalf of AirPro Diagnostics ("AirPro") to your Evidence Request letter dated April 17, 2020 in the above-referenced matter.

With respect to your request to obtain affidavits from several management team members, we are happy to make them available to you most anytime within the next two or three weeks at your convenience. I assume you will wish to obtain all of the affidavits within a one or two day period of time and that the schedule of each affiant will be somehow staggered every hour or so for the requisite time period. Again, we are happy to work with you in coordinating your obtaining the affidavits.

You have also requested certain documents to be produced by AirPro. The May 1, 2018 through October 8, 2019 timeframe you have identified is approximately eighteen (18) months. Management may send multiple daily emails back and forth. Consequently, we have requested each of the senior management team to provide us with all emails involving (b) (6), (b) (7)(C). In response to our request to management, we have received, and reviewed hundreds of emails to, from or referencing (b) (6), (b) (7)(C). Additionally, both informal and regularly scheduled meetings, including tech meetings generally on a weekly basis, were held during the eighteen (18) month period. We have not undertaken a forensic examination of management team laptops or other devices. Our response to your requests are as follows:

1. The complete personnel file of (b) (6), (b) (7)(C) is e-filed as Composite Exhibit A.
2. A copy of the Separation Agreement and Release, which is included in (b) (6), (b) (7)(C) personnel file, is e-filed as separate Exhibit B. The decision to discharge (b) (6), (b) (7)(C) was the result of collaborative oral discussions among senior management. The discussions were not documented. It is acknowledged that (b) (6), (b) (7)(C) was technically competent. The decision to discharge (b) (6), (b) (7)(C) was conduct-based stemming from (b) (6), (b) (7)(C) unsatisfactory

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attitude and relationship toward other employees, both those (b) (6) supervised and those in positions above (b) (6), (b) (7)(C).

3. There are no documents responsive to this request which would constitute a mandate, as that term is understood, for employees to use AE as opposed to other similar diagnostic software applications (tools). AE is but one of many diagnostic software programs applications (tools) that are used in the automotive repair and collision industry. It is recognized, used and accepted by most automotive repairers. Among the many available, AirPro chose to use AE as part of its business plan. AirPro also utilizes original equipment manufacturer ("OEM") diagnostic software applications when necessary. Since AE is the diagnostic software application chosen by AirPro, it is the primary software application used by and available to AirPro employees. Any diagnostic software program/application, including OEM diagnostic software applications, will have issues from time to time which must be recognized and overcome. As (b) (6), (b) (7)(C) noted on multiple occasions, AE (or any other diagnostic software application) is only a tool.

4. As a preliminary statement, neither the Charge nor your request define personal liability in any way. AirPro is not aware of what type of personal liability is suggested. Nevertheless, it is believed that no documents exist in which any employees have expressed concern for their personal liability in using AE software as opposed to manufacturer software. AirPro is not aware of any of its activities, in the use of AE or any other software, for which personal liability could attach to any employee.¹

5. In addition to multiple daily emails between management team members, including (b) (6), (b) (7)(C) there were frequent meetings including, generally, tech meetings on Thursdays. Consequently, the volume of email correspondence and meeting documentation during the referenced time period is significant. It is again noted that AE was the software program utilized by AirPro in its business plan and was obviously and understandably the program discussed in various meetings. OEM software was also used from time to time. Any suggestion that the use of AE was mandated in any negative sense or that employees objected to it as a condition of employment is ludicrous.

6. No recordings are known to exist of meetings, including weekly tech meetings, in which employees purportedly expressed concern regarding potential personal liability in using AE software as opposed to manufacturer software. AirPro has no knowledge of any employee, including (b) (6), (b) (7)(C) expressing such concern. As noted in response to number 4 above, the

¹ Another AirPro employee, who happened to be a close associate of (b) (6), (b) (7)(C) was terminated for falsifying repair records. Failing to actually perform requisite repairs could lead to serious risks to motorists. Such risk could occur whether AE or OEM software is used. However, any risk occasioned by the conduct of an employee would fall to AirPro, not the employee.

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use of AE or any other software would not give rise to personal liability on the part of AirPro employees.

We trust the foregoing information adequately responds to your evidence request letter. In sum, there are no documents nor have there been any documents which would constitute a mandate for employees to use AE in any negative or punitive sense, either in emails, memoranda or recordings of meetings. Similarly, there are no documents nor have there been any documents in which employees have expressed concern for personal liability over the use of AE.

In addition to the information set forth above, AirPro is taking this opportunity to provide additional information relevant to (b) (6), (b) (7)(C) employment at AirPro and (b) (6), (b) (7)(C) Charge.

1. **Standing:**

In (b) (6), (b) (7)(C) 2019 (b) (6), (b) (7)(C) was named (b) (6), (b) (7)(C) at AirPro. The email to (b) (6), (b) (7)(C) confirming (b) (6), (b) (7)(C) appointment, the job description for (b) (6), (b) (7)(C) and the announcement to AirPro employees of (b) (6), (b) (7)(C) position are e-filed as Composite Exhibit C. As is evident from the job description, as well as what you should learn in affidavits you may obtain, (b) (6), (b) (7)(C) occupied a supervisory or managerial position with AirPro.

Individuals are statutory supervisors if (1) they hold the authority to engage in any of the supervisory functions (e.g., “assign” and “responsibly to direct”) listed in Section 2(11); (2) their “exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment;” and (3) their authority is held “in the interest of the employer.” Supervisory status may be shown if the putative supervisor has the authority either to perform a supervisory function or to effectively recommend the same. The burden to prove supervisory authority is on the party asserting it. *In re Oakwood Healthcare, Inc.*, 348 N.L.R.B. 686 (2006).

The supervisory functions include the authority to: hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action. In (b) (6), (b) (7)(C) role as (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) regularly assigned work to techs, assigned techs to different functions, directed and critiqued the work of techs and had the authority to recommend promotions or discipline.

(b) (6), (b) (7)(C) is not afforded Section 7 rights under the NLRA and therefore lacks standing to file the referenced Charge. The Charge should be summarily dismissed.

2. **Release:**

The Separation Agreement and Release (Exhibit B) executed by (b) (6), (b) (7)(C) on (b) (6), (b) (7)(C) 2019, followed by execution by AirPro on (b) (6), (b) (7)(C) 2019, contains an unequivocal release of AirPro by (b) (6), (b) (7)(C) for any claims (b) (6), (b) (7)(C) may assert in (b) (6), (b) (7)(C) individual, personal capacity. (b) (6), (b) (7)(C)

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(b) (6), (b) (7)(C) assertion that (b) (6) was discriminated against by AirPro, an assertion denied by AirPro, is purely personal in nature. Accordingly, (b) (6), (b) (7)(C) Charge should be dismissed.

3. Discipline:

In (b) (6), (b) (7)(C) Charge, (b) (6), (b) (7)(C) asserts that (b) (6) was disciplined on (b) (6), (b) (7)(C) 2019 for engaging in protected activity under the NLRA. The Charge does not define the alleged protected activity but it is presumed from your Evidence Request letter that the alleged protected activity involves AirPro's use of AE. There is no record of any discipline of (b) (6), (b) (7)(C) on (b) (6), (b) (7)(C) 2019 nor do the AirPro senior managers recall what would be classified as discipline. However, in June 2019, (b) (6), (b) (7)(C) was highly critical of (b) (6), (b) (7)(C), Air Pro's (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) immediate supervisor in a telephone call prior to a tech meeting. Such conduct on the part of (b) (6), (b) (7)(C) was improper. After consideration of the circumstances, senior management counseled (b) (6), (b) (7)(C) by telephone that such conduct was unacceptable. The recoding of the counseling phone call cannot be e-filed but can be made available in a disc. Such counseling did not constitute discipline nor could (b) (6), (b) (7)(C) conduct regarding (b) (6), (b) (7)(C) be considered protected activity under the NLRA. It is noted that (b) (6), (b) (7)(C) did not in any way raise an issue with AE during the telephone call, despite an opportunity to do so with senior management.

4. Technical Involvement:

As noted above, it is acknowledged that (b) (6), (b) (7)(C) was technically competent, hence (b) (6), (b) (7)(C) appointment as (b) (6), (b) (7)(C) at AirPro. Part of (b) (6), (b) (7)(C) responsibility as (b) (6), (b) (7)(C) was to develop presentations on AirPro's capabilities and functions for use both internally and to the public. Composite Exhibit D, e-filed contemporaneously herewith, demonstrates several presentations on AirPro developed and authored by (b) (6), (b) (7)(C). Please note the absence of any criticism of AE in the presentations or any complaints or concerns about mandated use or personal liability.

Moreover, in addition to the programs e-filed as Composite Exhibit D, we are also e-filing Composite Exhibit E consisting of a sampling of e-mails involving (b) (6), (b) (7)(C) which address the services provided by AirPro, issues it faces and the use and capabilities of AE. Again, note the absence of any reference to mandated use or concerns about personal liability of AirPro employees.

5. Post-Termination Communications:

Following (b) (6), (b) (7)(C) termination from the employment of AirPro, (b) (6) and (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C) for AirPro, engaged in a number of email communications regarding the termination, primarily related to payment of the severance, questions regarding personal time off and denials by (b) (6), (b) (7)(C) that (b) (6) signed a non-compete at AirPro. Copies of these communications are e-filed as Composite Exhibit F. Although (b) (6), (b) (7)(C)

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(b) (6), (b) (7)(C) complains about a number of issues in these communications, none of the complaints related to AE in any way, whether as to mandated use, concerns of personal liability or any other matter.

One of the issues (b) (6), (b) (7)(C) mentioned on several occasions in the communications of Composite Exhibit F is (b) (6), (b) (7)(C) denial that (b) (6), (b) (7)(C) ever signed a non-compete agreement. A signed copy of the non-compete is included in (b) (6), (b) (7)(C) personnel file e-filed as Composite Exhibit A. We are also including as Composite Exhibit F-1 an email from (b) (6), (b) (7)(C) to (b) (6), (b) (7)(C) dated May 14, 2018 in which (b) (6), (b) (7)(C) acknowledges having signed the non-compete. It would certainly seem that (b) (6), (b) (7)(C) credibility is to be questioned.

Finally, one may easily presume that (b) (6), (b) (7)(C) Charge, filed almost six (6) months after (b) (6), (b) (7)(C) employment at AirPro ended and only a day or so after service of AirPro's Civil Complaint against (b) (6), (b) (7)(C), that (b) (6), (b) (7)(C) has little regard for AirPro. However, you will note a number of comments by (b) (6), (b) (7)(C) in (b) (6), (b) (7)(C) post-termination communications with (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) held AirPro in high regard. To that end, we are also e-filing Exhibit F-2, a photocopy of a card sent by (b) (6), (b) (7)(C) on October 13, 2019 to several of the AirPro senior management team again expressing (b) (6), (b) (7)(C) regard for AirPro and its management members.

6. **"Hollywood, here we come":**

A video presentation utilized by AirPro as a marketing tool depicted (b) (6), (b) (7)(C) as the spokesperson for AirPro extolling the services of AirPro. The video certainly does not exhibit a spokesperson concerned about the tools utilized by AirPro, the inappropriate mandating of such tools or concern for personal liability. The video cannot be e-filed but can be made available separately on a disc.

In conclusion, (b) (6), (b) (7)(C) was a skilled and competent automotive technician. (b) (6), (b) (7)(C) view of (b) (6), (b) (7)(C) own capabilities, however, translated into inappropriate treatment and relationships with other AirPro employees at all levels. The termination of (b) (6), (b) (7)(C) employment was predicated solely on such inappropriate conduct. (b) (6), (b) (7)(C) was neither disciplined nor terminated because of any engagement in protected activity under the NLRA nor any other protected activity. AE was the software of choice for AirPro, among many available, and resort to OEM occurred as may have been appropriate. AE was the tool used by AirPro employees because it was the tool of choice. No employees, including (b) (6), (b) (7)(C), complained of any mandate nor of concern for personal liability.

(b) (6), (b) (7)(C) Charge has absolutely no factual or legal basis and should be dismissed.


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Thank you for your consideration of the foregoing.

Sincerely,

A handwritten signature in blue ink, appearing to read "Wells", is written over a light blue rectangular background.

r Wells

SGW 
Enclosures

#40620309 v1

S. Grier Wells
Board Certified Civil Trial Attorney
904-632-8478
GRIER.WELLS@GRAY-ROBINSON.COM

May 29, 2020

Mr. Steven Barclay, Esq.
National Labor Relations Board
Region 12
201 E. Kennedy Boulevard, Suite 530
Tampa, Florida 33602-5824

Re: AirPro Diagnostics LLC
Case No. 12-CA-258698

Supplemental Position Statement and Second Supplemental E-Filing

Dear Mr. Barclay:

Please accept this letter as a supplemental position statement to our initial position statement dated May 8, 2020, accompanied and supported by the Second Supplemental E-Filing of an Email from Mr. Winslow to Jared Cherry (jlc@prwlawfirm.com) dated March 5, 2020, attached hereto as following Exhibit J. Mr. Cherry is counsel for Ford Motor Company in intellectual property litigation against AirPro in Michigan.

Exhibit J was just received from an outside source and contains these significant representations by (b) (6), (b) (7)(C)

1. (b) (6), (b) (7)(C) voluntarily left (b) (6), (b) (7)(C) employment with AirPro;
2. (b) (6), (b) (7)(C) reason for voluntarily leaving AirPro was the (b) (6), (b) (7)(C) refusal to make needed corrections to the process.

(b) (6), (b) (7)(C) NLRB Charges (Initial and Amended) assert that (b) (6), (b) (7)(C) was discriminated against by having been discharged in retaliation for engaging in protected concerted activities. AirPro acknowledges that (b) (6), (b) (7)(C) was terminated but for other reasons previously reflected in the record. Contrary to (b) (6), (b) (7)(C) representation in Exhibit J, (b) (6), (b) (7)(C) did not voluntarily leave AirPro.

The litigation initiated by Ford Motor Company against AirPro involves intellectual property issues related to alleged licensing, trademark and copyright violations. The litigation does not involve the suitability of AE as opposed to OEM tools nor personal liability of employees utilizing AE.

INTERNET
FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER**DO NOT WRITE IN THIS SPACE**Case
12-CA-260330Date Filed
5/13/2020**INSTRUCTIONS:**

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Amazon Jax2		b. Tel. No. (855) 436-9067
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 12900 Pecan Park Road FL Jacksonville 32218-_____	e. Employer Representative	g. e-Mail jax2-askthr@amazon.com
		h. Number of workers employed 500
i. Type of Establishment (factory, mine, wholesaler, etc.) Others	j. Identify principal product or service Ship packages	
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) _____ of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.		

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

--See additional page--

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

(b) (6), (b) (7)(C)

Title:

4a. Address (Street and number, city, state, and ZIP code)

(b) (6), (b) (7)(C)

4b. Tel. No.
(b) (6), (b) (7)(C)

4c. Cell No.

4d. Fax No.

4e. e-Mail
(b) (6), (b) (7)(C)**5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)****6. DECLARATION**

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By (b) (6), (b) (7)(C)
(signature of representative or person making charge)Title: (b) (6), (b) (7)(C)
(Print/type name and title or office, if any)

Address (b) (6), (b) (7)(C)

05/13/2020 14:53:04
(date)Tel. No.
(b) (6), (b) (7)(C)

Office, if any, Cell No.

Fax No.

e-Mail
(b) (6), (b) (7)(C)**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)****PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Basis of the Charge

8(a)(1)

Within the previous six months, the Employer discharged an employee(s) because the employee(s) engaged in protected concerted activities by, inter alia, protesting terms and conditions of employment and in order to discourage employees from engaging in protected concerted activities.

Name of employee discharged	Approximate date of discharge
(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C) /2020

Additional Information in Support of Charge

Charging Party Name : (b) (6), (b) (7)(C)

Inquiry Number : (b) (6), (b) (7)(C)

Date Submitted : 05/13/2020 14:53:04

Please provide a brief description of the specific conduct involved in your charge. The information you provide may be viewed by the charged party in the event of a formal proceeding, so PLEASE DO NOT GIVE A DETAILED ACCOUNT OF YOUR CHARGE OR A LIST OF POTENTIAL WITNESSES AT THIS TIME. A Board Agent will contact you to obtain this and other detailed information after your charge is docketed. After you submit this E-Filed Charge form, you will receive a confirmation email with an Inquiry Number (Sample Inquiry Number: 1-1234567890) and a link to the E-Filing web page. You may use the link and the Inquiry number provided in the email to e-file any additional documents you wish to present in support of your charge.

Additional Information Provided:

I was hired (b) (6), (b) (7)(C) and every time I took a break I would lay down and nap at my workstation. I moved to a different department (b) (6), (b) (7)(C) and was told this is not allowed. I did it three times a day for months and no one in the other department batted an eye. After they told me I couldn't I never did it again. A week later a manager harassed me while clocked out on break in the break room saying I can't sleep there. I went to Human Resources and was told I was allowed to. A week later the same (b) (6), (b) (7)(C) came up to me breaking the 6 feet social distancing rule and woke me up again. I filed a harassment complaint last week and today 5-13 my first day of work this week I was brought to hr and fired for sleeping while on break at my workstation. I never did it once I was told it's not allowed and it only became a problem once I filed the harassment complaint against the manager after (b) (6), (b) (7)(C) lied to me and made up a policy.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 12
201 E Kennedy Blvd, Ste 530
Tampa, FL 33602-5824

Agency Website: www.nlr.gov
Telephone: (813)228-2641
Fax: (813)228-2874



Download
NLRB
Mobile App

May 13, 2020

Amazon Jax2
12900 Pecan Park Road
Jacksonville, FL 32218

Re: Amazon Jax2
Case 12-CA-260330

Dear Sir or Madam:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney JOHN W. PLYMPTON whose telephone number is (813)228-2665. If this Board agent is not available, you may contact Supervisory Attorney CHRISTOPHER ZERBY whose telephone number is (813)228-2693.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not

enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

May 13, 2020

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "David Cohen". The signature is written in a cursive, flowing style.

DAVID COHEN
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 12
201 E Kennedy Blvd, Ste 530
Tampa, FL 33602-5824

Agency Website: www.nlrb.gov
Telephone: (813)228-2641
Fax: (813)228-2874



Download
NLRB
Mobile App

May 13, 2020

(b) (6), (b) (7)(C)

Re: Amazon Jax2
Case 12-CA-260330

Dear (b) (6), (b) (7)(C):

The charge that you filed in this case on May 13, 2020 has been docketed as case number 12-CA-260330. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney JOHN W. PLYMPTON whose telephone number is (813)228-2665. If this Board agent is not available, you may contact Supervisory Attorney CHRISTOPHER ZERBY whose telephone number is (813)228-2693.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

TENGA PRESENTE: Esta carta contiene información importante acerca del cargo que usted presentó con la Junta Nacional de Relaciones del Trabajo (NLRB). En ella se explican sus obligaciones para proveer evidencia que sustente su cargo y quién lo estará investigando. Si el Inglés no es su primer idioma y usted desea que esta carta se le explique en su primer idioma, puede comunicarse por escrito con la Oficina Regional a la dirección que aparece en esta carta o llamar al (813)228-2641. El NLRB está comprometido en asegurar, en la medida que sea posible, que las personas que no hablen Inglés puedan entender el procedimiento de sus casos.

PLEASE NOTE: This letter contains important information about the charge you filed with the NLRB. It explains your obligations to provide evidence in support of the charge and who will be investigating your charge. If you are not a native English speaker and would like this letter to be explained to you in your primary language, you may contact the Regional Office by letter at the above address or call (813)228-2641. The National Labor Relations Board is committed to ensuring, to the extent possible, that non-English speaking parties are able to understand the processing of their cases.

Very truly yours,

A handwritten signature in black ink that reads "David Cohen". The signature is written in a cursive, flowing style.

DAVID COHEN
Regional Director

From: [Quinones, Lydia](#)
To: [Ramos, Ed](#)
Cc: [Ferrell, Amy](#)
Subject: FW: Inquiry # (b) (6), (b) (7)(C) Charge - CA
Date: Wednesday, May 13, 2020 3:26:03 PM

Ed, please work on this case, as per Amy's instructions below. Thanks.

From: Ferrell, Amy <Amy.Ferrell@nrlb.gov>
Sent: Wednesday, May 13, 2020 3:24 PM
To: Quinones, Lydia <Lydia.Quinones@nrlb.gov>
Subject: FW: Inquiry # (b) (6), (b) (7)(C) Charge - CA

Hi Lydia – please assign for docketing – thank you!

Agent: John Wes Plympton / Supervisor: Chris Zerby
Allegation: 8(a)(1) discharge for protected concerted activities
Bargaining status – none
Category 3
Dispute location – Jacksonville, FL

From: e-service@nrlb.gov <e-Service@service.nrlb.gov>
Sent: Wednesday, May 13, 2020 2:58 PM
To: DG-EFileChgPet-TAM12 <dgecpt12@nrlb.gov>
Subject: FW: Inquiry # (b) (6), (b) (7)(C) Charge - CA

This is to notify you that a new Signed Charge Against Employer, Documentary Evidence Document(s) has been received by your office Region 12, Tampa, Florida for Inquiry # (b) (6), (b) (7)(C), Charge Type : CA. You can access the document(s) filed by clicking on the link(s) in the Attachments section.

Date Submitted:	5/13/2020 2:53:09 PM (UTC-05:00) Eastern Time (US & Canada)
Dispute/Unit Location:	Jacksonville, FL
Regional, Sub-Regional Or Resident Office:	Region 12, Tampa, Florida
Employer:	Amazon Jax2
Charge Type:	CA
Inquiry Number:	(b) (6), (b) (7)(C)
Filing Party:	Charging Party
Name:	(b) (6), (b) (7)(C)
Email:	(b) (6), (b) (7)(C)

Address:	(b) (6), (b) (7)(C)
Telephone:	(b) (6), (b) (7)(C)
Fax:	
Attachments:	Signed Charge Against Employer: CHG.1-(b) (6), (b) (7)(C).SignedChargeAgainstEmployer_Wiz.pdf Documentary Evidence: DEV.1-(b) (6), (b) (7)(C).AdditionalInfoSupportingCharge.pdf

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Amazon Jax2
and

CASE 12-CA-260330

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Employer, Amazon Jax2


IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☐ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Joseph C. Ragaglia	
MAILING ADDRESS: Morgan, Lewis & Bockius LLP, 1701 Market Street, Philadelphia, PA 19103	
E-MAIL ADDRESS: joseph.ragaglia@morganlewis.com	
OFFICE TELEPHONE NUMBER: 215.963.5365	
CELL PHONE NUMBER:	FAX: 215.963.5001
SIGNATURE: 	
DATE: (Please sign in ink.) May 14, 2020	

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY. A COPY SHOULD BE SENT TO THE REGIONAL COUNSEL OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 12
201 E Kennedy Blvd, Ste 530
Tampa, FL 33602-5824

Agency Website: www.nlr.gov
Telephone: (813)228-2641
Fax: (813)228-2874

May 14, 2020

Joseph C. Ragaglia, Esq.
Morgan, Lewis & Bockius, LLP
1701 Market St
Philadelphia, PA 19103

Re: Amazon Jax2
Case 12-CA-260330

Dear Mr. Ragaglia:

This is to advise you that I have approved the withdrawal of the charge in the above matter.

Very truly yours,

/s/ David Cohen

David Cohen
Regional Director

cc:

(b) (6), (b) (7)(C)
[Redacted]

Amazon Jax2
12900 Pecan Park Road
Jacksonville, FL 32218